

# Exhibit 33

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**From:** Montgomery, Paige <pmontgomery@sidley.com>  
**Sent:** Tuesday, September 21, 2021 6:03 PM  
**To:** Patrick Daugherty <pdaugherty@glacierlakecap.com>  
**Subject:** RE: Highland Capital Management LP Asset Holdings - as of May 2009

Karthik Bhavaraju's email is: karthik.bhavaraju@teneo.com

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**From:** Patrick Daugherty <pdaugherty@glacierlakecap.com>  
**Sent:** Monday, September 20, 2021 8:18 PM  
**To:** Montgomery, Paige <pmontgomery@sidley.com>; Newman, Deborah (EXTERNAL @QUINNEMANUEL.COM ) <deborahnewman@quinnemanuel.com>  
**Cc:** James Seery <jpseeryjr@gmail.com>; Kirschner, Marc (NON-SIDLEY @TENEО.COM) <marc.kirschner@teneo.com>  
**Subject:** Highland Capital Management LP Asset Holdings - as of May 2009

Paige and Deborah,

As we discussed, here is the list of assets owned by Highland at the time I was negotiating with Scotia and BofA regarding the amendment to the Highland credit facility in 2009. Recall that the banks were not secured at the time of the default in 3Q 2008. This list represents all assets owned by Highland that were subsequently (i) pledged to the banks as collateral; (ii) allocated to the Highland Employee Retention Asset fund (HERA) to retain key employees (specifically to exclude Dondero and Okada) through a 3 year cliff vest; or (iii) allocated to Dondero and Okada pursuant to the amendment negotiations. I recall that many of these assets were transferred to NexPoint Advisors, Highland Capital Management Fund Advisors, Highland Capital Management Services, Inc, etc after Highland sold its European CLO business to Carlyle in early 2012 and used the proceeds to repay the banks thereby obtaining a release of the the pledges in the process. However, Dondero, Okada, Ellington and others were fully aware that the liability to Crusader Fund, Credit Strat Fund, UBS/HFP, and me were unresolved at the time.

Many of these assets had their names changed or were merged into other entities that are not obvious on their face. Importantly, Kristen Hendricks and several other people from the accounting team were used to transfer these assets and a search of their names with the assets should lead you to time and destination of the transfers (to pinpoint the harm to Highland). I have discovery production from my Texas trial to provide emails to the extent they were subsequently deleted or destroyed. In addition, my personal computer with Highland emails from 2009 to 2011 are held by my counsel pursuant to court ordered retention but I am not permitted to access the information pursuant to the injunction. I am willing to work with Highland to access this data for the purpose of assisting the estate to pursue its claims.

Very importantly, do not be discouraged by the low values as these assets were marked in June of 2009 when the Great Financial Crisis was at its peak. Focus on the unit ownership that the Highland estate would be entitled to had these assets not been diverted to affiliates of Dondero, Okada and Ellington pursuant to their plan to strip Highland of its assets. Were it not for these transfers, the estate would have more value to compensate its creditors that have been pursuing their claims for over 10 years - instead of them being transferred pursuant to a delay strategy to Dondero, Okada and Ellington affiliates.

**Patrick H Daugherty, Esq.**  
President and Chief Investment Officer

**Glacier Lake Capital Advisors**  
(t) +1 214.932.9140 (m) +1 972.679.7487  
(e) [pdaugherty@glacierlakecap.com](mailto:pdaugherty@glacierlakecap.com)

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